UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,079	07/10/2003	Allan Fabrick		3382

7590 01/07/2009

SIMON, GALASSO & FRANTZ PLC.
P.O. Box 26503
Austin, TX 78755-0503

EXAMINER	
NGUYEN, HIEP VAN	
ART UNIT	PAPER NUMBER
3686	
MAIL DATE	DELIVERY MODE
01/07/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/617,079	FABRICK ET AL.	
	Examiner	Art Unit	
	HIEP NGUYEN	3686	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 November 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-87* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-87* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-87 have been examined. Claims 1, 16, 18, 31, 46, 56, 71 and 86 have been amended. No new matter has been added.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5, 8, 10-15, 86-87 are rejected under 35 U.S.C.102(b) as being anticipated by Walker et al. (US. 6,684,276.)

4. With respect to Claim 1, Walker et al. teaches a method comprising:

a. obtaining information associated with an individual's medical condition ('276; Col. 7, lines 50-54);

b. selecting information to be presented to a medical provider based on the information retrieved ('276; Col. 8, lines 52-58); and

c. presenting the selected information to the medical provider in an integrated format ('276; Col. 8, lines 52-66.)

d. changing the information presented to the medical ('276; Col./line 8/ 66-9/3)

e. Provide in response to at least one diagnosis selected by the medical provider based on the individual's medical condition ('276; Col. 9, lines 27-29- audit facility presented to provider)

f. Wherein changing the information presented includes changing the information presented to custom information for the individual ('276; Col./line 9/40-10/11: newly created diagnostic template as in a form of custom information.)

5. With respect to Claim 2, Walker et al. further disclose including; collecting the information associated with an individual's medical condition; and storing the collected information in a database ('276; Col. 9, lines 14-19.)

6. With respect to Claim 3, Walker et al. further disclose wherein information associated with an individual's medical condition includes diseases ('276; Col. 9, lines 39-52.)

7. With respect to Claim 4, Walker et al. further discloses wherein information associated with an individual's medical condition includes treatment history ('276; Col. 7, lines 42-49; fig 13A.)

8. With respect to Claim 5, Walker et al. further discloses wherein information associated with an individual's medical condition includes risk factors ('276; Col. 2, lines 62-65.)

9. With respect to Claim 8, Walker et al. further disclose wherein care guidelines include medical tests likely to be required ('276; Col. 8, lines 8-19.)

10. With respect to Claim 10, Walker et al. further discloses wherein care guidelines include information associated with referrals ('276; Col. 9, lines 39-45.)

11. With respect to Claim 11, Walker et al. further discloses wherein selecting information includes suppressing information to be excluded from presentation ('276; col. 14, lines 22-33.)

12. With respect to Claim 12, Walker et al. further discloses wherein presenting the selected information includes printing a form ('276; Col. 14, lines 34-39)

13. With respect to Claim 13, Walker et al. further discloses wherein presenting the selected information includes saving the selected information to a computer readable file ('276; Col. 12, 34-47.)

14. With respect to Claim 14, Walker et al. further discloses wherein presenting the selected information includes presenting the selected information on a display device ('276; Col. 12, lines 40-53.)

15. With respect to Claim 15, Walker et al. further discloses wherein presenting the selected information on a display device includes presenting the selected information in an interactive format ('276; Col. 14, lines 11-15: graphical user interface.)

16. With respect to Claim 86, Walker further discloses a method of obtaining information from a medical database, the method comprising: presenting a medical database interface to an end-user; obtaining one or more filtering criteria from the end-user via the medical database interface; filtering data in the medical database based on the one or more filtering criteria obtained; and generating a report including the filtered data ('276; Col/line 8/52-9/9.)

17. With respect to Claim 87, Walker et al. further discloses including generating a report file including the one or more filtering criteria, wherein the report file is usable to supply filtering criteria during subsequent filtering operations ('276; col. 9, lines 24-28.)

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

19. Claims 6-7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (US 6,684,276) in view of Lavin et al. (US 5,772,585.)

20. With respect to Claim 6, Walker et al. does not disclose clearly wherein information associated with an individual's medical condition includes the individual's vital statistics.

Lavin et al. further discloses wherein information associated with an individual's medical condition includes the individual's vital statistics ('585; col. 8, lines 39-57.)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Walker et al. and Lavin et al. to include said vital statistics in patient medical records.

21. With respect to Claim 7, Walker et al. does not disclose clearly wherein selecting information includes selecting care guidelines associated with the individual's medical condition.

Lavin et al. further discloses wherein selecting information includes selecting care guidelines associated with the individual's medical condition ('585; Col. 12, lines 20-25.)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Walker et al. and Lavin et al. related to care guidelines in said individual's medical condition.

22. With respect to Claim 9, Walker does not clearly disclose wherein care guidelines include potential side effects of prescription medication to watch for.

Lavin et al. further discloses disclose wherein care guidelines include potential side effects of prescription medication to watch for ('585; Col/line 13/60-14/11.)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Walker et al. and Lavin et al. related to side effect of prescription.

23. With respect to Claims <16-30>, <31-45>, <46-55>, <56-70>, <71-85>, they are method and system claims which repeat the same limitations of claims <1-15>, the corresponding method claims, as a collection of elements as opposed to a series of process steps. Since the teachings of <Walker et al./Lavin et al.> disclose the underlying process steps that constitute the methods of claims <1-15>, it is respectfully submitted that they provide the underlying structural elements that perform the steps as

well. As such, the limitations of claims <16-30>, <31-45>, <46-55>,<56-70> <71-85> are rejected for the same reasons given above for claims <1-15>.

Response to Amendment/Arguments

24. Applicant's arguments filed 11/07/2008 have been fully considered but they are not persuasive.

25. In the remarks filed Nov. 07, 2009, Applicant argues that the Walker reference does not describe changing information presented to custom information for the patient as amended in Claims 1, 16, 18, 31, 46, 56, 71 and 86.

26. In response to Applicants' arguments, the Examiner respectfully disagrees on the difference between the teachings of Walker et al. and Applicant's invention.

Walker et al. discloses a database which contains the frequency of occurrence of a large number of diseases is analyzed. Based on the ranking of diseases by frequency the physician will select a subset of diseases for which diagnosis will be created.

Therefore given the broadest reasonable interpretation to one of ordinary skill in the art, it is submitted that the said subset of diseases created by the physician is in a form of custom information as amended in the Applicant's invention.

Therefore, the Examiner maintains the rejection to Applicant's claims

Conclusion

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

28. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

29. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HIEP NGUYEN whose telephone number is (571) 270-5211. The examiner can normally be reached on Monday through Friday 7:30AM-5:00PM.

30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

31. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/H. N./
Examiner, Art Unit 3686
January , 2009

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686